



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/474,478 12/29/99 LONGLEY

B 58434-A/JPW/

JOHN P WHITE  
COOPER & DUNHAM LLP  
1185 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

HM22/0713

EXAMINER

GITOMER, R

ART UNIT

PAPER NUMBER

1623

DATE MAILED:

07/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/474,478**

Applicant(s)  
**Longley**

Examiner  
**Ralph Gitomer**

Group Art Unit  
**1623**



☒ Responsive to communication(s) filed on Dec 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-38 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-38 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

The IDS received 4/24/00 has been entered and claims 1-38 are currently pending in this application.

This application contains claims directed to the following  
5 patentably distinct species of the claimed invention:

Methods of treating the following disorders:

Dermatitis

hyperpigmentation

asthma

10 cutaneous inflammations

anaphylaxis

bronchospasm

mastocytosis

urticaria

15 hypersensitivity reactions

tumors

contraception.

And independently the substances or mechanisms to treat the disorders:

20 inhibiting KIT protein

inhibiting chymase

inhibiting elastase

inhibiting SCF cleaving enzymes

25 inhibiting ligand binding with antibodies

With peptides

With non-peptides

inhibiting KIT dimerization

inhibiting downstream KIT activation

5 administering monoclonal antibodies of many different types  
administering organic compounds.

10 Applicant is required under 35 U.S.C. 121 to elect a single  
disclosed species for prosecution on the merits to which the  
claims shall be restricted if no generic claim is finally held to  
be allowable. Currently, no claims are generic.

15 Applicant is advised that a response to this requirement  
must include an identification of the species that is elected  
consonant with this requirement, and a listing of all claims  
readable thereon, including any claims subsequently added. An  
argument that a claim is allowable or that all claims are generic  
is considered nonresponsive unless accompanied by an election.

20 Upon the allowance of a generic claim, applicant will be  
entitled to consideration of claims to additional species which  
are written in dependent form or otherwise include all the  
limitations of an allowed generic claim as provided by 37  
CFR 1.141. If claims are added after the election, applicant  
must indicate which are readable upon the elected species. MPEP  
§ 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

The following prior art pertinent to applicant's disclosure is made of record and not relied upon:

Brownell (5,911,988) teaches treating asthma using SCF antibody.  
Bennett (5,997,865) teaches FLK antibodies.

Ravetch (5,877,396) teaches Fc receptors and antiinflammatory agents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm. The examiner can also be reached on alternate Mondays. If

Serial No. 09/474,478  
Art Unit 1623

-5-

attempts to reach the examiner by telephone are unsuccessful, the  
examiner's supervisor, Gary Geist can be reached on (703) 308-  
1701. The fax phone number for this Art Unit is (703) 308-4556.  
Any inquiry of a general nature or relating to the status of this  
5 application should be directed to the Group receptionist whose  
telephone number is (703) 308-1234.

*Ralph Gitomer*

Ralph Gitomer  
Primary Examiner  
Group 1623

RALPH GITOMER  
PRIMARY EXAMINER  
GROUP 1200

10